

CHAPTER 4

The Pros & Cons of Charter School Closures

Andrew Rotherham

What happens to children and families when a charter school suddenly closes? What happens, also, in surrounding schools and districts when a charter school closure suddenly forces them to enroll children who have no place else to go? Such questions went from abstract to urgent in late summer 2004, when the multi-site California Charter Academy (CCA), a for-profit education management company then undergoing several investigations into its finances and operations, closed more than 60 California campuses serving almost 10,000 students.¹

The event crystallized real concerns about charter school oversight and accountability and lingering suspicions about the small percentage of charter schools that are under private sector management.² One did not have to be a charter opponent to be outraged by the plight of the students and parents whose lives were suddenly turned upside down because of obvious malfeasance. The story of how this failure came about (and how local school districts and charter schools coped with it) illuminates the question of how such failures might be prevented and, when they occur, their effects mitigated.

First, about the immediate results: In large part because of the efforts of the California Charter School Association, every student displaced by the CCA's failure found a new school without instructional disruption. Moreover, no school district was overwhelmed by CCA students. The 10,000 CCA students came from all over California, while the average size of a CCA school was small, with fewer than 170 students. In addition, most of the displaced students transferred to one or another of the state's 533 other charter schools, according to the Center for Education Reform.³

Second, about causes: The story is about an unscrupulous business enriching itself at public expense, but there is more. Most notably, some local school districts that had

entered into contracts with the California Charter Academy deserve a share of the blame, too.

While CCA was an administrative headache for districts, it could also act as an administrative solution. Focusing on hard-to-place students who could not succeed in traditional schools, CCA offered school administrators a device for moving some of their more challenging students elsewhere—in fact out of the district, if need be. Indeed, the complexities of charter school law in California create some incentives for districts, particularly small ones, to enter into charter arrangements to take advantage of state payments that can be used within the district, not the charter school. The 150-student Oro Grande Elementary School District in San Bernardino County, for example, hired a part-time reading specialist with the state money it earned for its role in overseeing the charter it granted to CCA.⁴

Commenting on an influential *New York Times* account of the Oro Grande Elementary School District's role in the episode, Bill Phillips, president of the New York Charter School Association, says, "The district was viewed as a victim when it was actually an accomplice."⁵

Meanwhile, the district paid little attention to what the CCA was doing. District leaders say they were surprised at how fast the CCA opened schools under the charter; there were 24 total, including some hundreds of miles away from the district.⁶ It struggled to oversee them and even hired consultants to help, but ultimately took little action to address emerging problems. And, it was no secret that the CCA was a sub-par charter school operator. In fact, when the CCA's schools finally did close their doors, a spokesman for the California Charter School Association noted tersely, "It's about time."⁷

Despite the lurid headlines, this story had minor outcomes. The results might have been different if all the displaced students were from one district, but the effects of the collapse of CCA were spread among many districts, all over California.

However, students and surrounding districts might not be so lucky in the future. How can such problems be avoided and their consequences mitigated? The key to avoiding a repeat of this situation lies in the relationship between a charter school and the public agency that authorizes and oversees it. The key to mitigation is prudent problem anticipation by local districts, charter schools, and state charter school associations.

AUTHORIZING: THE KEY TO AVOIDING PROBLEMS

The deals between the California Charter Academy and the Oro Grande Elementary School District, with their perverse incentives and ineffective lines of accountability, illustrate the complexity of the charter school authorizing process. It also demonstrates why charter school authorizing is an ongoing process, not simply a gate-keeping function. Says Josephine Baker, executive director of the District of Columbia Public Charter School Board, the role of authorizers is to first “select applicants who appear able to do the job, and then provide oversight to ensure that the job is being done.”⁸

But like Oro Grande, many charter school authorizers are unprepared for the challenges of this process. A recent analysis by the Charter School Leadership Council concluded that half of all charter authorizers have granted only a single charter and 71% have granted two or less.⁹ So, between half and nearly three-quarters of all districts have very limited experience with the process. Often smaller authorizers, particularly single-school authorizers, are ill equipped for the intensive oversight responsibilities of charter authorizing.

In some cases such authorizers simply lack the staff to undertake their various responsibilities. Others are reluctant or “gunpoint” authorizers, only authorizing charter schools because state law requires districts to authorize them. Leaving school districts as the sole authorizer of charter schools in a state or community introduces other problems as well. At one extreme, some school boards are openly hostile to charters, thereby limiting public options in that community for parents who desire them. At the other, school districts face an obvious disincentive to close a charter school serving students—for instance, students with behavioral problems or with excessively demanding parents—who would then return to the traditional public schools.

THE SPECIAL PROBLEM OF SCHOOL CLOSURES

The most difficult challenge for a charter school authorizer is when to close a persistently low-performing charter school that is nonetheless popular with parents. As the data in Chapter 1 make clear, relatively few charter schools to date have been closed. In 15 states, according to NCSRP data, no charters were closed during 2004-2005. Nationally, the 65 charters that were closed in that year represent just 2% of the charter schools in states that reported school closure data. According to the Charter School

Leadership Council, as of January 2004 more than 300 charter schools had closed, or about 9% of all charters opened nationwide since 1991.¹⁰

These numbers and proportions, by themselves, tell us little about whether this is a desirable or undesirable state of affairs. Is it, for example, a healthy sign of the quality of charter schools in those 15 states that none of them had to be shut down? Or is it a troubling straw in the wind, perhaps indicating that schools, established so that their charters could be revoked for poor performance, continue to operate, regardless of performance?

Aside from high-profile incidents like the California Charter Academy, charter school closures have received little attention and have not been well studied. The discussion is mostly rhetorical. Charter school critics simultaneously argue that failing charters are not closed while pointing to forced closures that do occur as further evidence that the charter strategy is a failed one. Meanwhile, charter proponents are quick to cite closures as evidence of the success of the charter approach—real accountability—but too many advocates fail to realize that closures are disruptive for students and can, in some cases, be avoided through better quality charter school authorizing when schools are initially petitioning to open.

Charter schools are intended to combine market pressure through parental choice with public accountability through public oversight. By design, charter schools might be forced to close their doors for two quite distinct reasons. First, if an insufficient number of parents elect to enroll their children in the school, the school is likely to be forced to close at some point due to a lack of operating funds. Second, if the school fails to meet the terms of its charter (or its other financial and operational obligations as a public school), its authorizer can elect to close it.

It is the revocation issue that creates the greatest challenge for authorizers. That is because charter schools, even poor-performing ones, are proving wildly popular with parents, particularly in communities where the traditional public schools are inadequate. But unlike some choice schemes, in charter schooling, popularity is insufficient. Charter schools must also produce results. Yet closing schools, whether traditional public schools or charter schools, is always difficult. The old adage that closing a school is like moving a graveyard is as true of charter schools as it is of traditional neighborhood schools.

The highly charged politics of charter schooling further complicate matters. Speaking of charter schooling nationally, New York's Phillips says, "Where we get in trouble on closing bad charter schools is from the advocates. They have no problem clobbering district schools over poor performance, but the minute they have to turn around and look one of their own in the eye they too often flinch."¹¹

While Phillips is correct as a general proposition, there are some exceptions to his statement. For instance, state charter school associations in Texas, California, Michigan, and New York have all taken pro-accountability stands on school closures or legislation aimed at improving charter school quality. The pro-accountability culture in parts of the charter sector is unmistakable and a valuable backdrop for quality-oriented authorizers.

Because closing a school is as much a political as a policy process, authorizers who decide to close a school do so by whatever means they can. This accounts for the relatively small percentage of charters that have been closed explicitly for academic reasons. "They got Al Capone on his taxes," notes Jim Goenner, who runs the charter school office at Central Michigan University (CMU). Goenner says that when an authorizer enters into a closure situation "you're looking for clear and quantifiable things and in America today you can debate school performance until the cows come home." In addition, as a rule, authorizers say schools that are failing academically are generally experiencing problems in other operational areas as well.

Not surprisingly, in the wake of the CCA debacle, many charter proponents are looking to authorizers to prevent similar episodes in the future. In response, the National Association of Charter School Authorizers (NACSA) has developed model legislation intended to strip negligent charter authorizers of their ability to charter schools. NACSA's *Principles and Standards* also addresses the importance of high-quality charter school authorizing to the success of charter schools. Both the model legislation and the models and standards are important steps. NACSA's efforts are clearly aimed at raising authorizing and accountability bars.

Nonetheless, many state policies and practices—such as a lack of funding for authorizers, minimal requirements for ongoing oversight, and the ability of authorizers to charter schools that are in some cases hundreds of miles away—still work at cross-purposes with these goals.

In theory, authorizers can take two approaches to become more active with regard to closures. They can choose to address closures by authorizing all plausible charter school applicants to open a school, while acting decisively and aggressively to close low-performing charter schools. Or, they can permit only proven programs or operators to obtain charters. In theory, either approach might work.

In practice, however, neither approach is entirely satisfactory. Since closing schools is so unpopular and contentious (particularly in communities where high-quality educational options are scarce), a policy predicated on simply shutting the doors of poorly performing schools is almost bound to generate heat and contention. Such an approach is also quite disruptive for students. The “charter everyone and close the bad ones” approach also creates unnecessary political problems. Good charters get lumped in with the bad.

The second approach is also unsatisfactory, in different ways. Insisting that only proven providers deserve charters may be an attractive political position, but it does little or nothing to encourage new ideas. By seeking the security of an error rate of zero (by trying to ensure that no charter school ever fails), an authorizer also limits the creation of educational options that might benefit particular students in the community. Innovation is supposed to be one of the benefits of chartering. The second approach stifles it.

In practice, therefore, high-quality authorizers find themselves between these two extremes. For example, in Indianapolis, Mayor Bart Peterson focuses on quality in the authorizing process while also accepting some degree of risk by chartering new schools that do not yet have a proven record of success elsewhere. Since he began chartering schools in 2002, the mayor’s office has received more than 60 applications, but has approved only 13 schools. A recent Progressive Policy Institute analysis concluded that the mayor’s approach to quality, transparent data, and accountability was a major factor in the success of charter schooling in Indianapolis so far.¹²

Similarly, Jim Goenner at Central Michigan University takes a differentiated approach. Goenner oversees 57 schools serving 27,000 students, making the CMU charter operation one of Michigan’s largest districts. However, not every school has a charter of the same duration or experiences the same level of oversight. Only 43% of CMU’s schools are on five-year contracts. The rest vary greatly. Just 2% are on one-year contracts, 8% are on two-year contracts, while 22%, 2%, 2%, and 21%, respectively, are on three-, four-, six-, and seven-year contracts. This differentiation allows CMU to manage risk while also ensuring a healthy supply of high-quality public options.

Goenner notes, however, that it is only because CMU has shut down under-performing charters that the system has credibility. Schools understand that the differentiated and performance-based contracts are not indefinite postponements of consequences.¹³

RELATIVELY GOOD, BUT NOT GOOD ENOUGH

Perhaps the most difficult dilemma for authorizers involves schools that have not lived up to the terms of their charter but are still demonstrably better than the schools students will return to if the charter school is closed. In New York City, the closure of the John A. Reisenbach Charter School illustrated this issue and attracted national attention. Test scores of students at Reisenbach were simply comparable to surrounding schools. They did not meet the more ambitious goals in the charter. However, according to parents, the school was much safer and much preferred to other public options in the community.¹⁴ Parents vigorously protested and fought the proposed closure. Nonetheless, after much debate, the authorizer closed the school.

Many authorizers take a hard line on this quality question. Josephine Baker argues that national and state charter school laws “say nothing about doing as well as other poorly performing public schools. To just be better than a school that is awful is nothing.”¹⁵ Greg Richmond, president of NACSA and former head of the Chicago Public Schools’ charter school authorizing office, also notes that “The charter movement has opened the door to tens of thousands of people who want to do a good job and help kids. But having your heart in the right place isn’t enough, almost everyone in the traditional public system has their heart in the right place, too, but you have to be able to deliver results.” According to Richmond, it is the role of authorizers to police quality in this environment.¹⁶

Others, however, caution that placing that burden mostly on authorizers is asking a great deal. While supporting the closure of underperforming charter schools, they draw another lesson from the Reisenbach episode. “Any time you’re depending on the regulators to drive your movement you’re in trouble,” says Phillips, who argues that parental choice has a role to play as well. Phillips argues that ensuring parents have a variety of public schools from which to choose is essential. “We’ll do better as a movement if we get the choice component really working, it’s a natural complement,” he says.¹⁷ The Reisenbach episode and similar situations would doubtless be easier if the affected parents were not facing such a dismal set of educational choices.

PRUDENT PREPARATION TO ANTICIPATE PROBLEMS

Even the most diligent authorizer can be faced with the tough choice of closing a bad charter school—leading to displacement of students and burdens on neighboring schools—or allowing the school to continue providing inadequate instruction. School district authorizers should have a strong built-in incentive to preserve their options by thinking ahead about where students from a troubled charter school might transfer. Doing so not only looks after the interest of students, it helps preserve the reputation of charter schools in general.

Policymakers and advocates interested in mitigating the consequences of charter school closure have several options:

- First, they can work to strengthen a troubled school before it fails. This option entails making sure it gets promised funding, helping it find qualified staff, and insisting on instructional improvements. The CCA debacle might have been avoided if authorizers or others confronted its problems earlier.
- Second, they can keep track of vacancies in nearby district and charter schools. Educators should not need to scramble at the last minute to find seats for transferring students. It is not always clear that school districts do this well when faced with influxes of students (due to natural disasters or sudden waves of immigration), so they may need to improve here and add potential charter school closures to the mix. State charter school associations can also keep track of vacancies in accessible charter schools.
- Third, authorizers can demand management change in troubled charter schools. Meanwhile, charter associations should press for such approaches. Like federal regulators dealing with weak banks, responsible entities are likely to mitigate problems ahead of time if they demand a transfer of control from a weak organization to a stronger one instead of waiting for catastrophic failure. So bringing a nonprofit or for-profit school management organization, or a college or university or community institution with educational expertise, into the picture when problems first develop is likely to be helpful.
- Fourth, authorizers and charter associations can promote development of new charter schools to compete with troubled charter schools and possibly draw their students away. The Chicago school district has used this method to give families alternatives to consistently low-performing public high schools. Such an approach can work for charter schools as well.

Skeptics might remark on the irony of using more chartering to manage the risks of chartering. It is, however, a way that localities can create excess school capacity without hiring more staff members than student enrollment warrants, or developing new publicly owned school facilities. That is, in effect, how disaster was avoided in California. Charter schools' ability to expand rapidly by hiring staff and renting facilities as needed—and to contract when demand diminishes without forcing districts to keep unneeded staff and buildings on the books—can enable localities to respond to shifts in student population.

Authorizers should be careful, however, not to shift from applying pressure for improvement to demanding specific improvement steps and involving themselves in the operations of the schools they oversee. As soon as authorizers move from being referees to being players, they mortgage their regulatory authority.

CONCLUSION

As Greg Richmond of NACSA notes, charter school authorizers make the fundamental decisions about “who gets to enter and who gets to stay in the game.”¹⁸ This is a new frontier in public education, as previously there was little variety in its provision. Now, new entities are allowed to open schools and public authorities are charged with closing low-performing ones. There is still plenty of work to be done in developing effective policies and best practices on both counts, along with a growing awareness of the importance of getting it right. More broadly, the lessons learned on this frontier will pay dividends far beyond charter schooling. These lessons will help policymakers learn how to create school accountability systems with more texture and mechanisms for ensuring accountability for very small schools, new schools, and schools serving niche populations of students.

Perhaps most encouragingly, there is substantial and growing internal support within the charter school community for constantly developing options so the bar can be set high on quality. Considering how things too often play out in education, that is cause for cautious optimism.

- ¹ Erika Hayaski, "School Shuts Its Doors; Losing Inglewood Charter Campus is a Shock to Many," *The Los Angeles Times*, August 22, 2004.
- ² Estimates of the percentage of charter schools managed by Educational Management Organizations (EMOs) vary from 10%-14%. However, these figures include both for-profit and non-profit management organizations. Gregg Vanourek, *The State of the Charter Movement 2005: Trends, Issues, & Indicators* (Charter School Leadership Council, 2005).
- ³ Center For Education Reform, *www.edreform.com*, retrieved June 14, 2005.
- ⁴ Joetta Sack, "California Charter Failure Affects 10,000 Students," *Education Week*, September 1, 2004.
- ⁵ Bill Phillips, in discussion with the author, May 31, 2005.
- ⁶ Ibid.
- ⁷ Howard Blume, "Sixty Charter Schools Fall, With a Little State Shove," *The Los Angeles Times*, August 29, 2004.
- ⁸ Josephine Baker, in discussion with the author, May 31, 2005.
- ⁹ Vanourek, *State of the Charter Movement 2005*.
- ¹⁰ Ibid.
- ¹¹ Bill Phillips, in discussion with the author, May 31, 2005.
- ¹² Bryan C. Hassel, *Fast Break In Indianapolis: A New Approach To Charter Schooling* (Washington, D.C.: Progressive Policy Institute, 2004).
- ¹³ Jim Goenner, in discussion with the author, May 31, 2005.
- ¹⁴ Teresa Mendez, "Good Schools, Bad Scores," *Christian Science Monitor*, February 24, 2005.
- ¹⁵ Baker, op. cit.
- ¹⁶ Greg Richmond, in discussion with the author, May 23, 2005.
- ¹⁷ Phillips, op. cit.
- ¹⁸ Richmond, op. cit.